WP(C) 1123/2007
BEFORE
THE HON'BLE MR JUSTICE B.K. SHARMA

I have heard Mr. D. Das, learned counsel for the petitioner as well as Mr. K.N. Choudhury, learned Additional Advocate General, Assam assisted by Ms. R. Chakraborty, learned State Counsel for the official respondents. I have also heard Mr. B. Goswami, learned counsel for the respondent No. 4, who has entered appearance by filing caveat.

This writ petition is directed against Annexure-10, 13, and 14 orders dated 1.7.2005, 20.1.2007 and 7.2.2007. By Annexure-10 order, the respondents No. 4 was allowed to extract sand and stone quantity of which is 2056 cum and 900 cum respectively. The said order could not be given effect to because of on going litigation. But, eventually by Annexure-13 and 14 orders same has been given effect to after finalization of the legal proceeding vide judgment and order dated 5.4.2005 passed in WP(C) No. 9026 & 429/2005.

By the said judgment and order, this Court set aside the settlement made in favour of the respondent No. 4. However, an observation was made regarding purported loss sustained by the respondent No. 4. It was observed that it would be open for the petitioner to submit a claim for refund of kist money paid and also for refund of investments made by him. It was further provided that in the event of making such a claim, the concerned authority of the State would decide the same by passing appropriate order.

It is clear from the aforesaid judgment and order of this Court that what was provided in the order is that the authority of the respondent would consider the claim of the petitioner for refund of the loss sustained by him. However, the authority has now issued the impugned order dated 20.1.2007 (Annexure-13) and 7.2.2007 (Annexure-14) settling the sand mahal with the respondent No. 4 for the purpose of extraction of the value paid materials. This is in clear violation of the said judgment and order passed by this Court. By the said judgment and order, this Court has set aside the settlement made in favour of the respondent No. 4. As noticed above, it was only provided that the respondent authority may consider the claim of the petitioner for refund of investment etc. Thus, there is no question of allowing the respondent No. 4 for extraction of materials for the value paid. The impugned orders amount to overreaching the order passed by this Court.

In view of the above, the impugned orders are set aside and quashed. The writ petition is allowed. It will be open for the respondent No. 4 as well as the official respondents to act in conformity with the observations made in the earlier judgment and order dated 5.4.2005 passed by this Court.